

Christopher Kirkpatrick, Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20581  
United States  
[www.cftc.gov](http://www.cftc.gov)

Chris Barnard  
Germany

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- **17 CFR Part 1**
- **RIN Number 3038-AE62**
- **Retail Commodity Transactions Involving Virtual Currency**

Dear Mr. Kirkpatrick.

Thank you for giving us the opportunity to comment on your proposed interpretation of Retail Commodity Transactions Involving Virtual Currency.

The Commodity Futures Trading Commission (CFTC) is issuing a proposed interpretation of the term “actual delivery” as set forth in a certain provision of the Commodity Exchange Act (CEA) pursuant to the Dodd- Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Specifically, the proposed interpretation is being issued to inform the public of the CFTC’s views as to the meaning of actual delivery within the specific context of retail commodity transactions in virtual currency.

I support your interpretation of “actual delivery” as a determination based on a “functional approach” that will “examine how the agreement, contract, or transaction is marketed, managed, and performed, instead of relying solely on language used by the parties in the agreement, contract, or transaction”.<sup>1</sup> I also agree with your common sense view that actual delivery of virtual currency “connotes the ability of a purchaser to utilize the virtual currency purchased ‘on the spot’ to immediately purchase goods or services with the currency elsewhere”.<sup>2</sup> Therefore I support that whether “actual delivery” has occurred should depend on the commercial basis of the agreement, contract, or transaction (the economic realities).

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<sup>1</sup> Retail Commodity Transactions Under Commodity Exchange Act, 78 FR 52428, 23 August 2013.

<sup>2</sup> Quote taken from the Proposed Interpretation.

Please note that the comments expressed herein are solely my personal views

Ideally the actual agreement, contract, or transaction should have commercial substance in order to exclude wholly frivolous, fake, or even manipulative transactions. Finally I also agree with your broad interpretation of virtual currency, and that a bright line definition would be inappropriate at this time.

Yours sincerely

C.R.B.

Chris Barnard